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Attorneys for Defendant Delta Air Lines, Inc.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Los Angeles Division**

Z.B., a minor, and J.B., a minor, by
their guardian, S.S., and S.S., an
individual,

Plaintiffs,

v.

DELTA AIR LINES, INC.;
BRIAN PARTRICK DURNING; and
DOES 1-5, inclusive,

Defendants.

) Case No. 2:24-cv-06190 FLA (DFM)
) Hon. Fernando L. Aenlle-Rocha
) Courtroom 6B

) **DECLARATION OF KATHRYN A.
) GRACE, ESQ. IN SUPPORT OF
) DELTA AIR LINES, INC.'S,
) RESPONSE IN OPPOSITION TO
) PLAINTIFFS' MOTION TO
) REMAND ACTION TO STATE
) COURT**

) Complaint Filed: January 30, 2024

) Hearing Date: September 6, 2024
) Time: 1:00pm
) Courtroom: 6B

) Trial Date: Not yet set

DECLARATION OF KATHRYN A. GRACE, ESQ.

I, Kathryn A. Grace, Esq., declare as follows:

1. I am a partner with the law firm of Wilson Elser Moskowitz Edelman & Dicker LLP, counsel of record for Defendant Delta Air Lines, Inc. (“Defendant” or “Delta”) in the above-entitled action. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. I make this Declaration in support of Delta’s Response in Opposition to Plaintiffs’ Motion to Remand Action to State Court.

3. On June 24, 2024, Plaintiff Z.B. responded to Delta’s First Set of Requests for Admissions and admitted they are each seeking more than \$75,000.00 in damages. True and correct copies of Plaintiffs’ Responses to Requests for Admissions were attached to Delta’s Notice of Removal at Dkt. No. 1-4.

4. On June 24, 2024, Plaintiffs served responses to Delta’s Request for Statement of Damages, providing information regarding their claimed damages. True and correct copies of Plaintiffs’ Statements of Damages are attached hereto as **Exhibit A**.

5. Attached hereto as **Exhibit B** are true and correct copies of excerpts of the June 22, 2023, redacted transcript of the jury trial before the Honorable Wendy W. Berger, United States District Judge in *United States of America v. Brian Patrick Durning*, Case No. 6:22-cr-00102-WWB-RMN-1 (U.S.D.C. Middle District, Florida, Orlando Division).

6. Attached hereto as **Exhibit C** is a true and correct copy of an email that I received from defendant Brian Patrick Durning on July 22, 2024.

7. Attached hereto as **Exhibit D** are true and correct copies of excerpts from the redacted transcript of Sentencing on September 26, 2023, before the Honorable Wendy W. Berger, United States District Judge in *United States of America v. Brian Patrick Durning*, Case No. 6:22-cr-00102-WWB-RMN-1 (U.S.D.C. Middle District, Florida, Orlando Division).

1 8. Attached hereto as **Exhibit E** is a true and correct copy of the United
2 States' Motion for Upward Departure and/or Upward Variance and Sentencing
3 Memorandum filed in *United States of America v. Brian Patrick Durning*, Case
4 No. 6:22-cr-00102-WWB-RMN-1 (U.S.D.C. Middle District, Florida, Orlando
5 Division) (Dkt. No. 142).

6 9. Attached hereto as **Exhibit F** is a true and correct copy of property
7 tax records for the property located at 107 Primrose Drive, Longwood, Florida
8 32779, obtained from the records of the Seminole County Tax Collector
9 (<https://www.seminolecounty.tax/services/tax-search>), reflecting the property
10 located at that address is owned by Mary Ann Durning, the mother of defendant
11 Brian Patrick Durning.

12 10. Attached hereto as **Exhibit G** is a true and correct copy of the docket
13 report of the matter *In Re: The Marriage of Marian Fernandes Durning and Brian*
14 *Patrick Durning*, Case No. 22-DR-005179, Circuit Court of the Twentieth Judicial
15 Circuit in and for Lee County, Florida.

16 11. Attached hereto as **Exhibit H** is a true and correct copy of defendant
17 Brian Patrick Durning's Sentencing Memorandum filed in *United States of*
18 *America v. Brian Patrick Durning*, Case No. 6:22-cr-00102-WWB-RMN-1
19 (U.S.D.C. Middle District, Florida, Orlando Division) (Dkt. No. 139).

20 12. Attached hereto as **Exhibit I** is a true and correct copy of a letter from
21 Marian Fernandes Durning which was attached to defendant Brian Patrick
22 Durning's Sentencing Memorandum and filed in *United States of America v. Brian*
23 *Patrick Durning*, Case No. 6:22-cr-00102-WWB-RMN-1 (U.S.D.C. Middle
24 District, Florida, Orlando Division) (Dkt. No. 139-2).

25 13. Attached hereto as **Exhibit J** is a true and correct copy of defendant
26 Brian Patrick Durning's Passenger Name Record.

27 14. Attached hereto as **Exhibit K** is a true and correct copy of the Orlando
28 Police Department Case Report, reflecting Brian Patrick Durning provided officers

1 with a residential address located in Longwood, Florida and reflecting Durning's
2 telephone number has a "954" area code, which is associated with Broward
3 County, Florida.

4 15. Attached hereto as **Exhibit L** is a true and correct copy of the Minutes
5 of Sentencing filed in *United States of America v. Brian Patrick Durning*, Case No.
6 6:22-cr-00102-WWB-RMN-1 (U.S.D.C. Middle District, Florida, Orlando
7 Division) (Dkt. No. 146).

8 16. Attached hereto as **Exhibit M** are a true and correct copies of emails
9 exchanged between myself and Durning's criminal attorney, Jeremy Lasnetski,
10 between April 11, 2024 and April 15, 2024.

11 17. On August 16, 2024, my office received Defendant Brian Patrick
12 Durning's Verified Answer to Plaintiffs' Complaint. A true and correct copy of the
13 Verified Answer is attached hereto as **Exhibit N**. In the Answer, Durning denies
14 that he is a California resident. He alleges that "upon his conviction in a Florida
15 federal court, Mr. Durning had intended, and still intends, to relocate to the Middle
16 District of Florida where his mother lives." **Exhibit N** at ¶ 11.

17
18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20 Executed on August 16, 2024 in the McLean, Virginia.

21
22 /s/ Kathryn A. Grace

23 Kathryn A. Grace, Esq.
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